



1995 SENATE BILL 389

November 1, 1995 – Introduced by Senator ADELMAN. Referred to Committee on Education and Financial Institutions.

1 **AN ACT to repeal** 38.04 (15), 38.08 (1g), (2) and (2m) and 38.10; **to amend** 5.02
2 (3), (5) and (23), 5.58 (2) (b), 5.58 (3), 7.60 (4) (a) and (5), 7.70 (3) (d), 8.50 (intro.),
3 9.10 (1) (a) and (2) (b), 9.10 (3) (a), 9.10 (4) (a) and (d) and (7), 11.26 (1) (c) and
4 (2) (c), 11.31 (1) (f) and (g) (intro.) and 38.08 (1) (b); **to repeal and recreate**
5 17.27 (3) and 38.08 (1) (a); and **to create** 5.58 (2s), 5.60 (4s), 7.70 (6), 8.10 (3)
6 (as), 8.11 (6), 17.01 (10m), 38.06 (6), 38.08 (1) (c) and 38.08 (6) of the statutes;
7 **relating to:** popular election of technical college district boards, providing an
8 exemption from and extending the time limit for emergency rule procedures
9 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Currently, the technical college system is managed on the local level by district boards consisting of 9 members in each of the state's 16 technical college districts. The members of the technical college district board for each district are appointed by an appointment committee consisting of local elected officials in accordance with a representation plan based upon population distribution within the district, including distribution of women and minorities. All members must be residents of the district and 2 members must be employers and 2 members must be employes. One member must be a school district administrator of a school district that lies within the technical college district. All members serve for 3-year terms.

This bill provides for the election of all members of district boards from election districts within each technical college district on a nonpartisan ballot at the spring election. Each member must be an elector of the election district from which he or

she is elected. Terms are changed to 4 years. Under the bill, current district board members will serve until July 1, 1997, at which time district board members elected at the 1997 spring election will take office. The terms of the members are staggered so that at least 2 are elected every year. Nomination paper signature requirements, contribution limits and spending guidelines are the same as for the office of representative to the assembly. Candidates for the district board are not eligible to receive public grants to finance their campaigns.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 5.02 (3), (5) and (23) of the statutes are amended to read:

2 5.02 (3) "Educational officer" means the state superintendent, members of the
3 technical college district board and school board members.

4 (5) "General election" means the election held in even-numbered years on the
5 Tuesday after the first Monday in November to elect United States senators,;
6 representatives in congress,; presidential electors,; state senators,; representatives
7 to the assembly,; district attorneys,; state officers other than the state
8 superintendent ~~and~~, judicial officers, and members of technical college district
9 boards; and county officers other than supervisors and county executives.

10 (23) "State office" means the offices of governor, lieutenant governor, secretary
11 of state, state treasurer, attorney general, state superintendent of public instruction,
12 justice of the supreme court, court of appeals judge, circuit court judge, state senator,
13 state representative to the assembly ~~and~~, district attorney and member of a technical
14 college district board.

15 **SECTION 2.** 5.58 (2) (b) of the statutes is amended to read:

16 5.58 (2) (b) The candidates for the offices shall be designated on the ~~ballet~~
17 ballots as follows: "For State Superintendent", "For Justice of the Supreme Court",

1 “For Member of the (name of district) Technical College District Board, Election
2 District”, “For Court of Appeals Judge”, “For Circuit Judge Br.”, and others as the
3 situation requires.

4 **SECTION 3.** 5.58 (2s) of the statutes is created to read:

5 5.58 (2s) TECHNICAL COLLEGE DISTRICT BOARD. When required, there shall be a
6 separate ballot for member of the technical college district board. Arrangement of
7 the names on the ballot shall be determined by the elections board under s. 5.60. The
8 ballot shall be titled “Official Primary Ballot for (name of district) Technical
9 College District Board”.

10 **SECTION 4.** 5.58 (3) of the statutes is amended to read:

11 5.58 (3) NAMES ON SPRING BALLOT. Only 2 candidates for state superintendent;
12 for any judicial office;
13 for any elected seat on a metropolitan sewerage commission
14 or town sanitary district commission;
15 for member of a technical college district
16 board; in counties having a population of 500,000 or more only 2 candidates for
17 member of the board of supervisors within each district;
18 in counties having a
19 population of less than 500,000 only 2 candidates for each member of the county
20 board of supervisors from each district or numbered seat or only 4 candidates for each
21 2 members of the county board of supervisors from each district whenever 2
22 supervisors are elected to unnumbered seats from the same district;
23 in 1st class
24 cities only 2 candidates for any at-large seat and only 2 candidates from any election
25 district to be elected to the board of school directors;
in school districts electing school
board members to numbered seats, or pursuant to an apportionment plan or district
representation plan, only 2 school board candidates for each numbered seat or within
each district;
and twice as many candidates as are to be elected members of other
school boards or other elective officers receiving the highest number of votes at the

1 primary shall be nominees for the office at the spring election. Only their names
2 shall appear on the official spring ballot.

3 **SECTION 5.** 5.60 (4s) of the statutes is created to read:

4 5.60 (4s) TECHNICAL COLLEGE DISTRICT. There shall be a separate ballot giving
5 the names of the candidates for the technical college district board in the election
6 district when so required. The elections board shall determine the official ballot
7 arrangement for technical college district board candidates by using the same
8 method as that used under sub. (1) (b).

9 **SECTION 6.** 7.60 (4) (a) and (5) of the statutes are amended to read:

10 7.60 (4) (a) The board of canvassers shall make separate duplicate statements
11 showing the numbers of votes cast for the offices of president and vice president; state
12 officials; U.S. senators and representatives in congress; state legislators; justice;
13 court of appeals judge; members of the technical college district boards; circuit
14 judges; district attorneys; municipal judges, if they are elected under s. 755.01 (4);
15 and metropolitan sewerage commissioners, if the commissioners are elected under
16 s. 66.23 (11) (am). For partisan candidates, the statements shall include the political
17 party or principle designation, if any, next to the name of each candidate. The board
18 of canvassers shall also prepare a statement showing the results of any county,
19 technical college district or statewide referendum. Each statement shall state the
20 total number of votes cast in the county for each office; the names of all persons for
21 whom the votes were cast, as returned; the number of votes cast for each person; and
22 the number of votes cast for and against any question submitted at a referendum.
23 The board of canvassers shall use one copy of the statement to report to the elections
24 board or technical college district board and shall file the other statement in the office
25 of the county clerk or board of election commissioners.

1 (5) REPORTING. Immediately following the canvass the county clerk shall
2 deliver or send to the elections board, by 1st class mail, a certified copy of each
3 statement of the county board of canvassers for president and vice president; state
4 officials; senators and representatives in congress; state legislators; justice; court of
5 appeals judge; technical college district board member; circuit judge; district
6 attorney; municipal judge, if elected under s. 755.01 (4); and metropolitan sewerage
7 ~~com~~missioners commissioner, if the commissioners are elected under s. 66.23 (11)
8 (am). The statement shall record the returns for each office or referendum by ward,
9 unless combined returns are authorized under s. 5.15 (6) (b) in which case the
10 statement shall record the returns for each group of combined wards. Following
11 primaries the county clerk shall enclose on blanks prescribed by the elections board
12 the names, party or principle designation, if any, and number of votes received by
13 each candidate recorded in the same manner. The county clerk shall deliver or
14 transmit the certified statement to the elections board no later than 7 days after each
15 primary and no later than 10 days after any other election. The board of canvassers
16 shall deliver or transmit a certified copy of each statement for any technical college
17 district referendum to the secretary of the technical college district board. If the
18 board of canvassers becomes aware of a material mistake in the canvass of an
19 election for state or national office or a statewide or technical college district
20 referendum prior to the close of business on the day the elections board receives
21 returns from the last county board of canvassers with respect to that canvass, the
22 board of canvassers may petition the elections board to reopen and correct the
23 canvass. The elections board shall direct the canvass to be reopened and corrected
24 if it determines that the public interest so requires. If the elections board directs the
25 canvass to be reopened, the board of canvassers shall reconvene and transmit a

1 certified corrected copy of the canvass statement to the elections board or secretary
2 of the technical college district board.

3 **SECTION 7.** 7.70 (3) (d) of the statutes is amended to read:

4 7.70 (3) (d) When the certified statements and returns are received, the board
5 of state canvassers shall proceed to examine and make a statement of the total
6 number of votes cast at any election for the offices involved in the election for
7 president and vice president; a statement for each of the offices of governor,
8 lieutenant governor, if a primary, and a joint statement for the offices of governor and
9 lieutenant governor, if a general election; a statement for each of the offices of
10 secretary of state, state treasurer, attorney general, and state superintendent; for
11 U.S. senator; representative in congress for each congressional district; the state
12 legislature; justice; court of appeals judge; technical college district board member;
13 circuit judge; district attorney; municipal judge, if he or she is elected under s. 755.01
14 (4); metropolitan sewerage commission, if the commissioners are elected under s.
15 66.23 (11) (am); and for any referenda questions submitted by the legislature.

16 **SECTION 8.** 7.70 (6) of the statutes is created to read:

17 7.70 (6) TECHNICAL COLLEGE DISTRICT BOARD MEMBERS; DETERMINATIONS. The
18 elections board shall cause a copy of the certified determination of the board of state
19 canvassers for the election of each member of any technical college district board to
20 be transmitted to the secretary of that district board.

21 **SECTION 9.** 8.10 (3) (as) of the statutes is created to read:

22 8.10 (3) (as) For the office of member of the technical college district board from
23 any election district, not less than 200 nor more than 400 electors.

24 **SECTION 10.** 8.11 (6) of the statutes is created to read:

1 8.11 (6) TECHNICAL COLLEGE DISTRICT BOARD MEMBERS. A primary shall be held
2 in an election for members of any seat on a technical college district board whenever
3 there are more than 2 candidates in any election district.

4 **SECTION 11.** 8.50 (intro.) of the statutes is amended to read:

5 **8.50 Special elections.** (intro.) Unless otherwise provided, this section
6 applies to filling vacancies in the U.S. senate and house of representatives, executive
7 state offices except the offices of governor, lieutenant governor and, district attorney
8 and member of a technical college district board, judicial and legislative state offices,
9 county offices and the offices of municipal judge and member of the board of school
10 directors in school districts organized under ch. 119. State legislative offices may be
11 filled in anticipation of the occurrence of a vacancy whenever authorized in sub. (4)
12 (e). No special election may be held after February 1 preceding the spring election
13 unless it is held on the same day as the spring election, nor after September 1
14 preceding the general election unless it is held on the same day as the general
15 election, until the day after that election. If the special election is held on the day
16 of the general election, the primary for the special election, if any, shall be held on
17 the day of the September primary. If the special election is held on the day of the
18 spring election, the primary for the special election, if any, shall be held on the day
19 of the spring primary.

20 **SECTION 12.** 9.10 (1) (a) and (2) (b) of the statutes are amended to read:

21 9.10 (1) (a) The qualified electors of the state, of any county, city, village, town,
22 of any congressional, legislative, judicial, technical college or school district, or of any
23 prosecutorial unit may petition for the recall of any incumbent elective official by
24 filing a petition with the same official or agency with whom nomination papers or

1 declarations of candidacy for the office are filed demanding the recall of the
2 officeholder.

3 (2) (b) A recall petition for a city, village, town, technical college district or
4 school district office shall contain a statement of a reason for the recall which is
5 related to the official responsibilities of the official for whom removal is sought.

6 **SECTION 13.** 9.10 (3) (a) of the statutes is amended to read:

7 9.10 (3) (a) This subsection applies to the recall of all elective officials other
8 than city, village, town, technical college district and school district officials. City,
9 village, town, technical college district and school district officials are recalled under
10 sub. (4).

11 **SECTION 14.** 9.10 (4) (a) and (d) and (7) of the statutes are amended to read:

12 9.10 (4) (a) Within 10 days after a petition for the recall of a city, village, town,
13 technical college district or school district official, is offered for filing, the officer
14 against whom the petition is filed may file a written challenge with the ~~municipal~~
15 ~~clerk or board of election commissioners or school district clerk~~ official or agency with
16 whom it is filed, specifying any alleged insufficiency. If a challenge is filed, the
17 petitioner may file a written rebuttal to the challenge with the ~~clerk or board of~~
18 ~~election commissioners~~ official or agency within 5 days after the challenge is filed.
19 If a rebuttal is filed, the officer against whom the petition is filed may file a reply to
20 any new matter raised in the rebuttal within 2 days after the rebuttal is filed. Within
21 14 days after the expiration of the time allowed for filing a reply to a rebuttal, the
22 ~~clerk or board of election commissioners~~ official or agency shall file the certificate or
23 an amended certificate. Within 31 days after the petition is offered for filing, the
24 ~~clerk or board of election commissioners~~ official or agency shall determine by careful
25 examination of the face of the petition whether the petition is sufficient and shall so

1 state in a certificate attached to the petition. If the petition is found to be insufficient,
2 the certificate shall state the particulars creating the insufficiency. The petition may
3 be amended to correct any insufficiency within 5 days following the affixing of the
4 original certificate. Within 2 days after the offering of the amended petition for filing,
5 ~~the clerk or board of election commissioners~~ official or agency shall again carefully
6 examine the face of the petition to determine sufficiency and shall attach to the
7 petition a certificate stating the findings. Immediately upon finding an original or
8 amended petition sufficient, except in cities over 500,000 population and technical
9 college districts, ~~the municipal clerk or school district clerk~~ official shall transmit the
10 petition to the governing body or to the school board. Immediately upon finding an
11 original or amended petition sufficient, in cities over 500,000 population, the board
12 of election commissioners shall file the petition in its office. Immediately upon
13 finding an original or amended petition sufficient, in technical college districts, the
14 elections board shall file the petition in its office.

15 (d) The governing body, school board ~~or~~, board of election commissioners or
16 elections board, upon receiving the certificate, shall call an election on the Tuesday
17 of the 6th week commencing after the date of the certificate. If Tuesday is a legal
18 holiday, the recall election shall be held on the first day after Tuesday which is not
19 a legal holiday.

20 (7) PURPOSE. The purpose of this section is to facilitate the operation of article
21 XIII, section 12, of the constitution and to extend the same rights to electors of cities,
22 villages, towns, technical college districts and school districts.

23 **SECTION 15.** 11.26 (1) (c) and (2) (c) of the statutes are amended to read:

24 11.26 (1) (c) Candidates for representative to the assembly or member of a
25 technical college district board, \$500.

1 **(2)** (c) Candidates for representative to the assembly or member of a technical
2 college district board, \$500.

3 **SECTION 16.** 11.31 (1) (f) and (g) (intro.) of the statutes are amended to read:

4 11.31 **(1)** (f) Candidates for representative to the assembly or member of a
5 technical college district board, \$17,250 total in the primary and election, with
6 disbursements not exceeding \$10,775 for either the primary or the election.

7 (g) (intro.) In any jurisdiction or district, other than a technical college district
8 or judicial district or circuit, with a population of 500,000 or more according to the
9 most recent federal census covering the entire jurisdiction or district:

10 **SECTION 17.** 17.01 (10m) of the statutes is created to read:

11 17.01 **(10m)** By a member of a technical college district board, to the secretary
12 of the district board.

13 **SECTION 18.** 17.27 (3) of the statutes is repealed and recreated to read:

14 17.27 **(3)** TECHNICAL COLLEGE DISTRICT BOARD. Except as provided in s. 9.10, a
15 vacancy in the membership of a technical college district board may be filled by
16 temporary appointment of the remaining members of the district board. The
17 temporary appointee shall serve until a successor is elected and qualifies. If the
18 vacancy occurs in any year after the first Tuesday in April and on or before December
19 1, the vacancy shall be filled for the residue of the unexpired term, if any, at the
20 succeeding spring election. If the vacancy occurs in any year after December 1 or on
21 or before the first Tuesday in April, the vacancy shall be filled for the residue of the
22 unexpired term, if any, at the 2nd succeeding spring election.

23 **SECTION 19.** 38.04 (15) of the statutes is repealed.

24 **SECTION 20.** 38.06 (6) of the statutes is created to read:

1 38.06 (6) Promptly upon issuance of a reorganization order by the board, the
2 director of the board shall transmit a copy of the order to the elections board.

3 **SECTION 21.** 38.08 (1) (a) of the statutes is repealed and recreated to read:

4 38.08 (1) (a) A district board shall administer the district and shall be composed
5 of 9 members who are residents of the district. The members shall be elected to
6 represent numbered election districts by the electors of each election district within
7 the technical college district at the spring election. Each member of the district board
8 shall be an elector of the numbered election district within the technical college
9 district for which he or she seeks office.

10 **SECTION 22.** 38.08 (1) (b) of the statutes is amended to read:

11 38.08 (1) (b) District board members shall take office on July 1 and shall serve
12 staggered ~~3-year~~ 4-year terms.

13 **SECTION 23.** 38.08 (1) (c) of the statutes is created to read:

14 38.08 (1) (c) Promptly upon receipt of the determinations of the elections board
15 under s. 7.70 (6) and upon appointment of any person to fill a temporary vacancy on
16 the district board, the secretary of the district board shall send written notification
17 of the name and address of each member and expiration date of each member's term
18 to the director of the board.

19 **SECTION 24.** 38.08 (1g), (2) and (2m) of the statutes are repealed.

20 **SECTION 25.** 38.08 (6) of the statutes is created to read:

21 38.08 (6) (a) Within 90 days after the population count by block, established
22 in the decennial federal census of population, and maps showing the location and
23 numbering of census blocks become available in printed form from the federal
24 government or are published for distribution by an agency of this state or within 90
25 days after the creation of any new district or alteration in the boundaries of an

1 existing district, the district board of each existing district whose population is
2 changed by the census or alternation, or the board after the creation of a new district,
3 shall apportion and prescribe the boundaries of 9 numbered election districts, to be
4 as nearly equal in population as possible, within each affected district. Alterations
5 in election districts resulting from boundary changes to existing districts may be
6 made only to the extent required to facilitate the creation or change. Each election
7 district shall, insofar as practicable, be compact and observe the community of
8 interest of existing neighborhoods. A detailed map and description of each election
9 district shall be prepared and transmitted by the district board to the director of the
10 board.

11 (b) All proposed district boundaries established by a district board under par.
12 (a) shall become effective only upon their approval by the board. If the board
13 disapproves the proposed boundaries, the district board shall submit a revised
14 districting plan for approval of the board. Upon approval of the election district
15 boundaries within any district, the board shall promulgate the boundaries
16 established under par. (a) as a rule under ch. 227. The boundaries shall become
17 effective on the effective date of the rule.

18 **SECTION 26.** 38.10 of the statutes is repealed.

19 **SECTION 27. Nonstatutory provisions; election of initial district**
20 **boards.**

21 (1) Notwithstanding section 38.08 (6) of the statutes, as created by this act,
22 within 60 days after the effective date of this subsection, the appointment committee
23 of each technical college district shall adopt and transmit to the secretary of each
24 technical college district board and the director of the state technical college system
25 board an initial districting plan for election districts as required by section 38.08 (6)

1 of the statutes, as created by this act. The state technical college system board shall
2 review and determine its approval or disapproval of each plan as promptly as
3 possible. If a plan is rejected, the appointment committee shall submit a new plan
4 for approval. Notwithstanding section 227.24 (1) and (3) of the statutes, the state
5 technical college system board may promulgate the plan as an emergency rule under
6 section 227.24 of the statutes without demonstrating the necessity of preservation
7 of the public peace, health, safety or welfare and without a finding of emergency.
8 Notwithstanding section 227.24 (1) (c) of the statutes, an emergency rule
9 promulgated under this subsection applies until a rule replacing that rule takes
10 effect or until the conditions specified in section 227.24 (1) (d) of the statutes occur,
11 whichever is sooner. Notwithstanding section 227.19 (4) to (6) of the statutes, the
12 rule replacing a valid emergency rule adopted under this subsection may not contain
13 any substantive change from the emergency rule.

14 (2) Notwithstanding chapter 269, laws of 1981, section 22, and section 38.08
15 (1) (b) of the statutes, as affected by this act, the members of each technical college
16 district board who hold office on the effective date of this subsection shall cease to
17 hold office on July 1, 1997. At the 1997 spring election, 9 members shall be elected
18 to each technical college district board for terms commencing on July 1, 1997. The
19 persons elected to represent election districts numbered 1 and 2 at that election shall
20 serve for terms of one year, the persons elected to represent election districts
21 numbered 3 and 4 at that election shall serve for terms of 2 years, the persons elected
22 to represent election districts numbered 5 and 6 at that election shall serve for terms
23 of 3 years, and the persons elected to represent election districts numbered 7, 8 and
24 9 at that election shall serve for terms of 4 years.

